

**SID NAIMAN**, individually and on behalf of all others similarly situated,  
Plaintiff,  
  
vs.  
  
**IntelliCall Corporation AKA  
Accurate Answering;  
Medfone24.com; CareLink  
Communications; Ring Medical  
Communications Services; Travis  
Vincent; Bobbi Kocher Spain; DOES**  
1 – 10, inclusive,  
  
Defendant(s).

) Case No.  
)  
) **CLASS ACTION**  
)  
) **COMPLAINT FOR VIOLATIONS**  
) **OF:**  
)  
) 1. NEGLIGENT VIOLATIONS OF  
) THE TELEPHONE CONSUMER  
) PROTECTION ACT [47 U.S.C.  
) §227 ET SEQ.]  
) 2. WILLFUL VIOLATIONS OF THE  
) TELEPHONE CONSUMER  
) PROTECTION ACT [47 U.S.C.  
) §227 ET SEQ.]  
) **DEMAND FOR JURY TRIAL**  
)  
)

-1-

**NATURE OF THE CASE**

1  
2 1. Plaintiff brings this action for himself and others similarly situated  
3 seeking damages and any other available legal or equitable remedies resulting from  
4 the illegal actions of INTELLICALL CORPORATION AKA ACCURATE  
5 ANSWERING; CARELINK COMMUNICATIONS; MEDFONE24.COM; RING  
6 MEDICAL COMMUNICATIONS SERVICES; TRAVIS VINCENT; BOBBI  
7 KOCHER SPAIN (collectively, “Defendants”), in negligently, knowingly, and/or  
8 willfully contacting Plaintiff via “telephone facsimile machine” in violation of the  
9 Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), thereby  
10 causing Plaintiff and all others similarly situated to incur the costs of receiving  
11 unsolicited advertisement messages via “telephone facsimile machines” and  
12 invading their privacy.

**JURISDICTION & VENUE**

13  
14 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
15 a resident of California, seeks relief on behalf of a Class, which will result in at  
16 least one class member belonging to a different state than that of Defendants, which  
17 are entities formed and headquartered in other states and individuals residing in  
18 Pennsylvania and Indiana. Plaintiff also seeks up to \$1,500.00 in damages for each  
19 call in violation of the TCPA, which, when aggregated among a proposed class in  
20 the thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.  
21 Therefore, both diversity jurisdiction and the damages threshold under the Class  
22 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

23 3. Venue is proper in the United States District Court for the Northern  
24 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
25 business within the state of California and Plaintiff resides within this District.

**PARTIES**

26  
27 4. Plaintiff, SID NAIMAN (“Plaintiff”), is a natural person residing in  
28 Contra Costa County, California and is a “person” as defined by 47 U.S.C. § 153

1 (39).

2 5. Defendants, INTELLICALL CORPORATION AKA ACCURATE  
3 ANSERING (hereinafter, “Defendant IC” or “IC”), MEDFONE24.COM  
4 (hereinafter, “Defendant MEDFONE” or “MEDFONE”), RING MEDICAL  
5 COMMUNICATIONS SERVICES (hereinafter, “Defendant RMCS” or  
6 “RMCS”), and CARELINK COMMUNICATIONS (hereinafter, “Defendant CC”  
7 or “CC”) are a business entities that sell and market calling services for medical  
8 professionals and patients, and are each a “person” as defined by 47 U.S.C. §  
9 153(39).

10 6. Defendant, TRAVIS VINCENT (hereinafter, “Defendant VINCENT”  
11 or “VINCENT”) is the president, Chief Executive Officer, or owner (i.e., “principle  
12 member”) of Defendant IC, Defendant MEDFONE, Defendant RMCS, and  
13 Defendant CC. At all relevant times herein, VINCENT controlled, oversaw,  
14 managed, or played a significant, material role in the day-to-day operations of IC,  
15 MEDFONE, RMCS, and CC, including without limitation their telephone  
16 marketing practices and procedures. As IC’s, MEDFONE’s, RMCS’, and CC’s  
17 principle member, VINCENT was responsible for their overall success. VINCENT  
18 is a “person” as defined by 47 U.S.C. § 153(39).

19 7. Defendant, BOBBI KOCHER SPAIN (hereinafter, SPAIN) is the  
20 president and a co-founder of Defendant CC. As CC’s president and co-founder,  
21 Defendant SPAIN played a significant, material role in CC’s overall success as  
22 well as its telephone marketing practices and procedures. SPAIN was responsible  
23 for CC’s overall success. SPAIN is a “person” as defined by 47 U.S.C. § 153(39).

24 8. Furthermore, Plaintiff alleges upon information and belief that  
25 Defendants IC, MEDFONE, RMCS, and CC were, at all times relevant herein, the  
26 alter-egos of Defendants VINCENT and SPAIN, without which, IC, RMCS, and  
27 CC had no independent existence.

1           9. Defendants IC, RMCS, CC, VINCENT, and SPAIN will be referred  
2 to collectively and hereinafter as “Defendants”.

3           10. The above named Defendant, and its subsidiaries and agents, are  
4 collectively referred to as “Defendants.” The true names and capacities of the  
5 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
6 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
7 names. Each of the Defendants designated herein as a DOE is legally responsible  
8 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
9 Complaint to reflect the true names and capacities of the DOE Defendants when  
10 such identities become known.

11           11. Plaintiff is informed and believes that at all relevant times, each and  
12 every Defendant was acting as an agent and/or employee of each of the other  
13 Defendants and was acting within the course and scope of said agency and/or  
14 employment with the full knowledge and consent of each of the other Defendants.  
15 Plaintiff is informed and believes that each of the acts and/or omissions complained  
16 of herein was made known to, and ratified by, each of the other Defendants.

17                           **FACTUAL ALLEGATIONS**

18           12. Beginning in or around December of 2016, Defendants contacted  
19 Plaintiff on his telephone facsimile numbers ending in -6535 in an effort to sell or  
20 solicit their services.

21           13. Defendants contacted Plaintiff via facsimile from telephone numbers  
22 confirmed to belong to Defendants, including without limitation (571) 335-4248  
23 and (910) 339-8252.

24           14. Defendants contacted Plaintiff between on or around December of  
25 2016 and April of 2017 in an effort to solicit their business.

26           15. Defendants’ messages constituted “telephone solicitation” as defined  
27 by the TCPA, 47 U.S.C. § 227(a)(4) and “unsolicited advertisement” as defined by  
28 the TCPA, 47 U.S.C. § 227(a)(5).

1           16. Defendants used an “telephone facsimile machine” as defined by 47  
2 *U.S.C. § 227(a)(3)* to place its calls to Plaintiff seeking to sell or solicit their  
3 business services.

4           17. Defendants’ calls constituted calls that were not for emergency  
5 purposes as defined by 47 *U.S.C. § 227(b)(1)(A)*.

6           18. Defendants’ calls were placed to telephone facsimile numbers  
7 assigned to a telephone service for which Plaintiff incurs a charge for incoming  
8 messages.

9           19. Plaintiff is not a customer of Defendants’ services and has never  
10 provided any personal information, including his telephone facsimile number, to  
11 Defendants for any purpose whatsoever. Accordingly, Defendants never received  
12 Plaintiff’s “prior express consent” to receive calls using a telephone facsimile  
13 machine pursuant to 47 *U.S.C. § 227(b)(1)(C)*.

14           20. Furthermore, the messages that Defendants sent to Plaintiff lacked the  
15 “opt-out” notice pursuant to 47 *U.S.C. § 227(b)(2)(D)*.

16                           **CLASS ALLEGATIONS**

17           21. Plaintiff brings this action on behalf of himself and all others similarly  
18 situated, as a member of the proposed class (hereafter “The Class”) defined as  
19 follows:

20                           All persons within the United States who received any  
21 telephone facsimile messages from Defendants to said  
22 person’s telephone facsimile number made through the  
23 use of any telephone facsimile machine and such person  
24 had not previously consented to receiving such messages  
25 and such messages did not contain any opt-out notice  
26 within the four years prior to the filing of this Complaint

27           22. Plaintiff represents, and is a member of, The Class, consisting of All  
28 persons within the United States who received any telephone facsimile messages

1 from Defendants to said person's telephone facsimile number made through the use  
2 of any telephone facsimile machine and such person had not previously not  
3 provided their telephone facsimile number to Defendants within the four years prior  
4 to the filing of this Complaint, nor did the telephone facsimile message contain an  
5 opt-out notice.

6 23. Defendants, their employees, and their agents are excluded from The  
7 Class. Plaintiff does not know the number of members in The Class, but believes  
8 the Class members number in the thousands, if not more. Thus, this matter should  
9 be certified as a Class Action to assist in the expeditious litigation of the matter.

10 24. The Class is so numerous that the individual joinder of all of its  
11 members is impractical. While the exact number and identities of The Class  
12 members are unknown to Plaintiff at this time and can only be ascertained through  
13 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
14 The Class includes thousands of members. Plaintiff alleges that The Class members  
15 may be ascertained by the records maintained by Defendants.

16 25. Plaintiff and members of The Class were harmed by the acts of  
17 Defendants in at least the following ways: Defendants illegally contacted Plaintiff  
18 and Class members via their telephone facsimile numbers thereby causing Plaintiff  
19 and Class members to incur certain charges or reduced telephone facsimile time for  
20 which Plaintiff and Class members had previously paid by having to retrieve or  
21 administer messages left by Defendants during those illegal calls, and invading the  
22 privacy of said Plaintiff and Class members.

23 26. Common questions of fact and law exist as to all members of The  
24 Class which predominate over any questions affecting only individual members of  
25 The Class. These common legal and factual questions, which do not vary between  
26 Class members, and which may be determined without reference to the individual  
27 circumstances of any Class members, include, but are not limited to, the following:

- 28 a. Whether, within the four years prior to the filing of this Complaint,

Defendants sent telephone facsimile messages (other than for emergency purposes or made with the prior express consent of the called party and with an opt-out notice contained in the messages) to a Class member using any telephone facsimile machine to any telephone number assigned to a telephone facsimile service;

- b. Whether Plaintiff and the Class members were damaged thereby, and the extent of damages for such violation; and
- c. Whether Defendants should be enjoined from engaging in such conduct in the future.

27. As a person who received numerous messages from Defendant using a telephone facsimile machine, without Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of The Class.

28. Plaintiff will fairly and adequately protect the interests of the members of The Class. Plaintiff has retained attorneys experienced in the prosecution of class actions.

29. A class action is superior to other available methods of fair and efficient adjudication of this controversy, since individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous issues would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

30. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-



1 party Class members to protect their interests.

2 31. Defendants have acted or refused to act in respects generally  
3 applicable to The Class, thereby making appropriate final and injunctive relief with  
4 regard to the members of the California Class as a whole.

5 **FIRST CAUSE OF ACTION**

6 **Negligent Violations of the Telephone Consumer Protection Act**

7 **47 U.S.C. §227 et seq.**

8 32. Plaintiff repeats and incorporates by reference into this cause of  
9 action the allegations set forth above at Paragraphs 1-31.

10 33. The foregoing acts and omissions of Defendants constitute numerous  
11 and multiple negligent violations of the TCPA, including but not limited to each  
12 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

13 34. As a result of Defendants' negligent violations of *47 U.S.C. § 227 et*  
14 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
15 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

16 35. Plaintiff and the Class members are also entitled to and seek  
17 injunctive relief prohibiting such conduct in the future.

18 **SECOND CAUSE OF ACTION**

19 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

20 **47 U.S.C. §227 et seq.**

21 36. Plaintiff repeats and incorporates by reference into this cause of  
22 action the allegations set forth above at Paragraphs 1-31.

23 37. The foregoing acts and omissions of Defendants constitute numerous  
24 and multiple knowing and/or willful violations of the TCPA, including but not  
25 limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et*  
26 *seq.*

27 38. As a result of Defendants' knowing and/or willful violations of *47*  
28 *U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of



1 \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C.  
2 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

3 39. Plaintiff and the Class members are also entitled to and seek  
4 injunctive relief prohibiting such conduct in the future.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

7 **FIRST CAUSE OF ACTION**

8 **Negligent Violations of the Telephone Consumer Protection Act**

9 **47 U.S.C. §227 et seq.**

- 10 • As a result of Defendants' negligent violations of 47 U.S.C.  
11 §227(b)(1), Plaintiff and the Class members are entitled to and  
12 request \$500 in statutory damages, for each and every violation,  
13 pursuant to 47 U.S.C. 227(b)(3)(B); and  
14 • Any and all other relief that the Court deems just and proper.

15 **SECOND CAUSE OF ACTION**

16 **Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

17 **47 U.S.C. §227 et seq.**

- 18 • As a result of Defendants' willful and/or knowing violations of 47  
19 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to  
20 and request treble damages, as provided by statute, up to \$1,500, for  
21 each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47  
22 U.S.C. §227(b)(3)(C); and  
23 • Any and all other relief that the Court deems just and proper.

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**JURY DEMAND**

40. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff reserves their right to a jury on all issues so triable.

Respectfully Submitted this 11th day of May, 2017.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff